

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

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| IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION | Master File No. 2:12-MD-02327 MDL No. 2327 |
| THIS DOCUMENT RELATES TO: WAVE 1 CASES | JOSEPH R. GOODWIN U.S. DISTRICT JUDGE |

**DEFENDANTS' MOTION TO EXCLUDE
CERTAIN OPINIONS OF JOHN MIKLOS, M.D.**

Defendants Ethicon, Inc. and Johnson & Johnson (collectively, "Ethicon"), pursuant to Rule 702 of the Federal Rules of Evidence and *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), move to exclude certain opinions of John Miklos, M.D. In support of this motion, Ethicon states:

1. Dr. Miklos's opinions that the TVT Secur is defectively designed are unreliable because they are not based on any reliable methodology but are instead mere *ipse dixit*. Furthermore, Dr. Miklos lacks the requisite expertise to opine on certain characteristics of these products.

2. Dr. Miklos's opinion that there were safer alternative products is unreliable. Dr. Miklos failed to demonstrate any testing, calculations, analysis, or publications that supported his conclusion. Furthermore, his opinions rely heavily on his subjective interpretation and not on generally accepted theories within the scientific community.

3. Dr. Miklos's opinions regarding the adequacy of the TVT Secur IFU should be excluded because he has no expertise in medical-device warnings or regulatory requirements,

and he fails to identify any reliable scientific evidence establishing that the warnings were inadequate.

4. Dr. Miklos's opinions regarding inadequate training are not relevant to these cases and should be excluded.

5. Dr. Miklos's opinions about Ethicon's knowledge, state of mind, or bad acts should be excluded because he has no specialized knowledge to testify about what Ethicon did or did not know.

6. Ethicon incorporates by reference its Memorandum in Support of its Motion to Exclude Certain Opinions of John Miklos, M.D. and the following exhibits:

| Exhibit | Description |
|----------------|---|
| A | List of Plaintiffs in Wave 1 to whom this Motion applies. |
| B | Dr. Miklos's Curriculum Vitae. |
| C | Dr. Miklos's Expert Report on TVT Secur. |
| D | Excerpts from Deposition of John Miklos, M.D. 2/6/15. |
| E | Excerpts from Deposition of John Miklos, M.D. 4/8/16. |

WHEREFORE, FOR THESE REASONS and as more fully set forth in Ethicon's supporting memorandum of law, Ethicon respectfully requests that this Court enter an order granting Ethicon's Motion to Exclude Certain Opinions of John Miklos, M.D.

Respectfully submitted,

ETHICON, INC. AND
JOHNSON & JOHNSON

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CERTIFICATE OF SERVICE

I certify that on April 21, 2016, I electronically filed this document with the Clerk of the Court using the CM/ECF system which will send notification of this filing to CM/ECF participants registered to receive service in this MDL.

/s/ Christy D. Jones

Christy D. Jones

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